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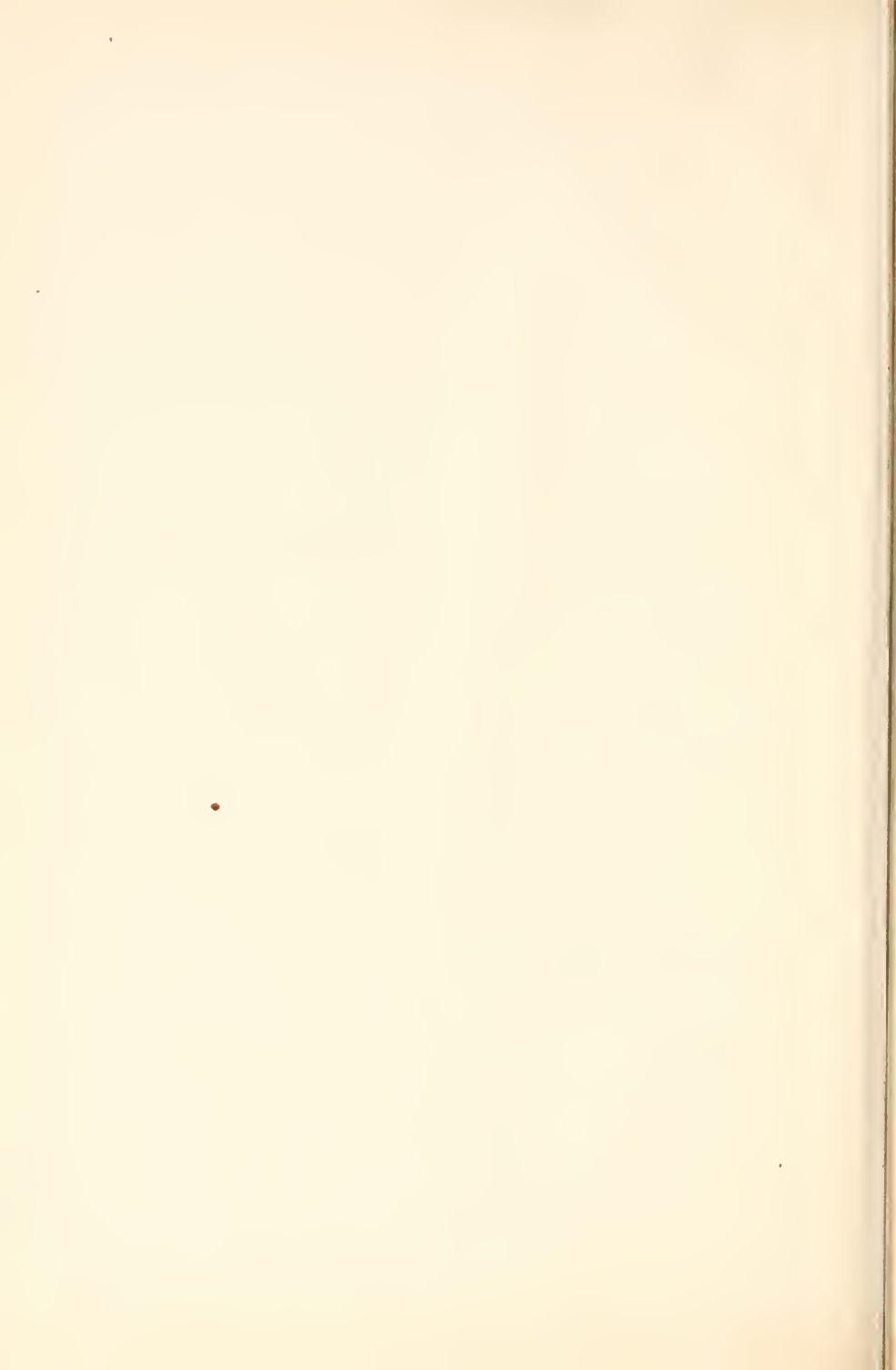
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UNITED STATES OF AMERICA.















# LECTURE

DELIVERED AT THE

BROOKLYN ACADEMY OF MUSIC,

BY

BENJ. F. BUTLER, OF MASSACHUSETTS,

*November 24th, 1866.*



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11. June 13-11

# The Usurpations, Wrongs and Abuses of Executive Power, and the Constitutional Remedy therefor.

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GEN. BUTLER said :

*Fair Ladies, Gentlemen of Brooklyn :*

REPUBLICS ALWAYS HAVE BEEN FAILURES.

All experiments of Government, republican in form, have hitherto been failures.—Whether conducted by the polished intellectual Athenian ; the rugged, austere Spartan ; the warlike, enterprising, but luxurious Roman of ancient days ; or in the present century by the mercurial but philosophical Frenchman, worshipping the Goddess of Reason and theorizing a Utopia ; or by the crisp-haired semi-barbarous Haytien just emerging from the darkness of ages into the light of civilization,—each and all have been merged in despotism or ended in anarchy tempered with autocracy.

True, the free Switzer still sways his snow-crowned Alps by elected rulers, but his Government holds its power not in its strength but in its insignificance, and rather serves as an illustration than a contravention of this great truth.

HISTORY TEACHES THE SAME FATE FOR AMERICA.

History in all ages has repeated herself, when the conditions under which she exhibits the affairs of man are the same, as well in acts as situation. Startling as is this fact to the American patriot when reasoning *a priori* upon the future of his country, the enemies of free institutions, denying the capacity of men for self-government, have never failed to press it upon him, whenever the safety, stability or durability of different forms of government are the topic of discussion or prophecy.

Sad indeed would be the forebodings of the American statesman for the future of his country—nay, of the very existence of liberty itself in the world—if he could find no vital distinctions by which to take our last and so far best experiment of free government from the inexorable destiny to which it

seems fated in the light of philosophy teaching through example.

It would also seem to be his highest duty, taking warning from the story of the past, so to shape the course and current of governmental action as to avoid the vortex in which all other free governments have been drawn and foundered.

ALL HAVE FAILED FROM THE SAME CAUSE.

The “beginning of their end” has been as uniform as their destruction has been universal. The same harbinger has heralded the downfall of each, at once the precursor and cause of death—

USURPATION OF EXECUTIVE POWER,

AND THE NEGLECT OF THE PEOPLE TO RESIST THE EARLIER ENCOACHMENTS UPON THEIR RIGHTS AND LIBERTIES.

How to meet these dangers to our Republic, will not unprofitably employ an evening’s thought.

THE STRENGTH OF OUR GOVERNMENT IN WAR.

Those who advocate the capacity of the few to govern, and the necessity of the many to be governed ; the superiority of a monarchical over an elective representative government, have never ceased to tell us that “Our Democracy” had not that firmness of purpose or adhesion, sufficient to enable us to carry on a long or devastating war. We have answered that, by raising larger armies in less time than any other nation of which there is even a fabled record. We have successfully carried on a war more terrible, more extensive, more bloody in its details, and more important in its great results, than any war ever waged. And this too a civil war, which all history shows to be more trying to the stability of a government than foreign invasion or foreign aggression.

OUR ABILITY TO BORROW MONEY AND PAY IT.

Again : we are told, that a government based solely on the will of the people could never enjoy the confidence of wealth and

capital so as to borrow large amounts of money on extended loan. To this again we answer: America has borrowed more money, by hundreds of millions, and in less time, and at a better rate of investment, than did ever all the Empires, Kingdoms and Principalities of Europe put together. Aye, and far greater and nobler, when the exigency has past, we began paying what we borrowed, principal and interest, which they never did.

#### OUR GOVERNMENT THE STRONGEST FOR TAXATION.

Again, it has been said that the crowning test of the inefficiency of a representative government would come when the people were called upon to vote to tax themselves to pay a largely accumulated National debt.

That democracy was but another name for repudiation.

We reply, that at this hour we are the worst or best taxed people on the face of the globe. To redeem our National faith we cheerfully pay to the Government of our free choice, from our substance, double and treble what did the Hebrew both for his government and religion, and double and treble all that any tyrant, by whatever name, has ever wrung by oppression from the grasp of a crushed people. And even now are ringing in our ears the thunder tones of the joyous shouts of millions of intelligent freemen over the astounding majorities of ballots voting to engraft upon the very frame-work of our Government our National Debt, so that National Credit may never be impaired though it may take the last dollar and the last loaf to redeem it.

#### THE PATRIOTISM OF OUR CITIZEN SOLDIERS— NO DANGER FROM THEM.

Another and greater danger to our free institutions was claimed when the war ended. Our victorious armies, greater than the fabled hosts of Xerxes, flushed with success, their soldiers, combined together and endeared to each other by the hardships of the bivouac and the perils of battle, enticed by the romance, the excitement and the allurements of camp and field,—their officers in love with a profession, at once chivalric and commanding, wherein laurels were to be won, distinction, and high positions attained, both, and each spurning the tame arts of peace, unwilling to return to the monotony of every day

life, under the lead of some bold bad man, but brilliant and unscrupulous soldier, would, like the Roman legions, seize upon the Government, make their General supreme, and govern by the sword. On the contrary, these armies have melted away "like the snow-flake soft falling on the sod,"—the soldier merging in the civilian, all the better citizen because he had been a good soldier, bringing home the discipline of the army, as instruction to obedience of the law, honored by the people for his deeds of valor or endurance in the field, and so far from being dreaded as dangerous to the liberties of the people, leaned upon as the right arm of support in peace, of those free institutions which he had preserved in war.

#### OUR COUNTRY PURER AND BETTER FOR THE WAR.

Thus all these perils so fatal either in detail, or in the aggregate to so many republics, have not only been passed in safety, but the Country has surmounted them with accumulated power and grandeur, purged from slavery, the last vestige of sin and wrong in her Constitution, with liberty and equality of right to all men, for her motto, and her escutcheon bright, spotless, stainless and pure as the glittering shield of Richard the Lion-hearted when he dashed it in the face of the hosts of the Saracen.

#### THE SAFE GUARDS OF LIBERTY: RELIGION AND INTELLIGENCE.

What elements, then, has this our Republic, which others had not that she laughs to scorn hazards which were fatal to them? — *The School House and the Church, Education and Christianity, never before given to a whole people under a Republic.*

#### NO COMMON SCHOOLS IN THE SOUTH.

To a whole people, did I say? Ah! would it had been so. Therein lies the difficulty. "It was a grievous fault and grievously have we answered it." Over nearly one half of our territory heretofore swaying quite that proportion of political powers, there has never been established any system of education free and common to all, in which the people could be instructed in their duty to their fellowmen and their country, and the larger part of whose inhabitants were unable even to read the Book of Life. Far more miserable and wretched beside, to almost a majority of the people, the truths of the gospel were hidden or perverted, and marriage, the most holy of the sacraments of the church, the very

foundation of society, even as a civil contract, was denied.

#### IGNORANCE THE SOURCE OF TREASON.

Is it a marvel then that eleven States, with people thus besotted by ignorance, with governments republican in form, cursed with an institution which, demoralizing the people of the Grecian and Roman Republics, hastened their downfall; bound to the parent government by moral and political obligations only, should break away from all ties of loyalty and patriotism which hold men to country and government, to try the experiment of despotism and end in anarchy.

What else could have been expected, reading their horoscope by the light of historical example, hut rebellion, treason, war, intensified by murderous atrocities of starvation of the prisoner and helpless, culminating in the wicked assassination of the purest and best patriot, Lincoln.

Ought we not to be thankful to the Almighty Disposer of events that there was enough of intelligence, virtue, courage and Christian faith in the North to redeem the country as from the gulf of perdition, to the brink of which, ignorance, sin and slavery had brought it?

#### HOW CAN THE SOUTH BE BEST REORGANIZED?

Now that organized resistance to the laws has ceased in that territory which the sword and the sword alone, has conquered—how shall the people thereof, with safety to themselves and to the whole country, be brought to enjoy the blessings of free institutions insuring equality of rights and justice to all?

That problem so vast, so momentous, so vital, can only be solved by the wisdom of experience learning from the events of the past.

#### POLITICAL EXPEDIENCY WILL NOT DO IT.

Political expedients adjusting balances of power; Conventions framing constitutions of government; Presidents inventing policies of reconstruction; Congress passing acts of admission or rejection of re-organized or disorganized States, cannot compass it; each and all, all the devices of State craft will fail as they always under like conditions, have failed. Even the new boon, universal freedom, has not and will not accomplish it. Universal, impartial suffrage allied to universal ignorance, will only add to the danger; giving to the masses the club of Hercules to be wielded with the strength of the blind Sampson, after he had been a slave grinding in the prison house of the Philistines.

#### UNIVERSAL EDUCATION, INTELLECTUAL AND RELIGIOUS, THE ONLY SAFETY.

Universal education, the common school and the Church, are the only bases upon which the

South can be safely and permanently reconstructed. Let the schoolhouse arise in every hamlet and precinct, free to all, black and white alike; scattering its blessings upon all, upon the loyal and disloyal, hountiful and broadcast, like the dews of heaven on the just and unjust.

The church will follow the school as a fostering mother, and the seeds of religion will not fall on stony ground, where learning has upturned the mind and heart by her benign influences.

Let nothing hinder this method of reconstruction. All others are temporary expedients which will fail, and fortunate it will be for the Country if they do not fail in anarchy and blood. This alone is safe and eternal.

#### THERE IS POWER IN CONGRESS TO ESTABLISH SCHOOLS IN THE SOUTH.

Let us not be told that there is no power given by the Constitution to Congress to educate the people of these conquered territories. If the power is not in the organic law, put it there, and at once. But I deny the proposition. Adequate power is now in the Constitution from necessity, because of the very instincts of self-preservation. Nay, it is there in words: "Congress shall have power to provide for the common defence and general welfare of the United States."

What better defence can be provided against the worst and deadliest enemies of all free governments, ignorance and vice, than learning and religion? How better "provide for the general welfare of the United States" than to educate that people to a knowledge of their rights and duties, where degradation, slavery, feudalism class legislation in peace, and the devastations of war and the march of armies have taken from them the power even, if not the will of fitting themselves to preserve the blessings of free government.

#### NOTHING MUST HINDER THIS REMEDY IF YOU WOULD ESCAPE THE FATE OF ALL REPUBLICS.

Let no traditions of government; let no mere forms of law; no circumlocutions of State craft; or any of the clogs of the dead past prevent the education of the Southern people.

Urged by the warnings of History, I plead as for my life, for this, the only assurance of the success of this greatest, and if it fail, this last experiment of freedom and happiness of the people, untrodden by despotism. With the wailing cry of him who sees the ark of safety forever disappearing in the whirling waste of waters, I pray that the intelligence and christianity of our educated people may turn aside the wand of the Muse of History pointing downward the course of our Country, to follow in the long ranks of buried Republics, to guide us in a triumphal march, onward! upward, forever!



## VIGILANCE AND INTEGRITY ALSO NECESSARY.

Will these so great safeguards be sufficient without that vigilance and integrity of the people, which shall watch and resist the first so dangerous encroachments of Executive power. Nothing can be more fatal to liberty than the listless carelessness which passes over unheeded the first steps of usurpation. All History teaches that no despot has ever seized upon the liberties of a people until the people were familiarized by frequent allusions to its possibility.

## ALL CHANGES OF GOVERNMENT HERALDED BY DISCUSSING THE POSSIBILITY BY DESPOTS.

No change of Government has ever yet taken place, no great crisis has ever yet occurred in the affairs of a Nation, until the people have been lulled into negligence by hearing the frequent discussion of its likelihood. We are apt to shut our eyes and ears to any supposition of danger to come from words. We are inclined to say "that is only talk, wait till some Act is done, and then it will be time to move," but words may be and sometimes are things, "living, burning things, that set a world on fire."

## IF TALK OF SECESSION HAD BEEN PUNISHED, THE WAR HAD NEVER OCCURRED.

As a most notable instance of the power of words, look at the inception of the rebellion through which we have just passed.—For a quarter of a century the Nation took no notice of the talk of disunion and secession which was heard in Congress and on the "stump," until in the South a generation was taught it by word, and the word suddenly burst forth into terrible, awful war. Does anybody doubt that if Jackson had hanged Calhoun in 1832, for talking nullification and secession which was embryo treason, that the cannon of South Carolina against Fort Sumter would ever have been heard with all their fearful and deadly consequences? Nay, more; if United States officers, Senators and Representatives had been impeached and disqualified from office in 1832, for advocating secession on the "stump," as was done in 1862 by Congress, then our sons and brothers, now dead in battle or starved in prison, had been alive and happy, and a peaceful solution of the question of slavery had been found.

## THE GREAT CRIME OF SUGGESTING THAT A DICTATOR IS POSSIBLE IN THIS COUNTRY.

Whoever, then, shall suggest the possibility that the form of our Government may be changed, and that a "King" or a "Dictator" may seize the liberties of the people, commits a great crime and misdemeanor against free government. It is an insult to the intelligence and virtue of the people to suppose that thing possible. The Roman law is said not to have contained any penalty against a child killing his parent, because by making a provision against so horrid a crime the law would suppose parricide possible. So there is no express enactment in our Constitution, and laws to punish the declaration that any man by the use of the patronage of the government and the Army and Navy of the people may take away their liberties, and make himself either King or Dictator, but the crime of undermining the confidence and affection of the people to their institutions is not therefore less, and all the greater when it emanates from high official position. The hope, wish or thought of the possibility, publicly expressed by any officer of the Government, Civil or Military, that he could become the tyrant of the people, under whatever name, is a heinous offence, for which the Constitution has provided a sure and conservative remedy.

## THE WARNING OF WASHINGTON AGAINST USURPATION.

Again, our frame of government divides its powers among several departments, carefully adjusting the balance, so that neither can usurp any that belongs to the other without the utmost danger to the whole. This peril of usurpation was foreseen by our patriot fathers, and Washington makes it the subject of a solemn warning in his farewell address. Hear him:

"It is important, likewise, that the habits of thinking, in a free Country, should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one Department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the Departments in one, and thus to create, whatever the form of government, a real despotism." . . .

"But let there be no change by usurpation; for though this, in one instance may be the instrument of good, it is the customary weapon by which free Governments are destroyed."

IMPEACHMENT ESTABLISHED AS A REMEDY FOR  
USURPATION AND MISBEHAVIOR IN OFFICE.

Our patriot heroes founding a government, of itself born of a Revolution springing from the oppressions of a King and an irresponsible Ministry, availing themselves of every safeguard of British freedom, declared in Magna Charta, added thereto frequency of election of the Chief Executive and the Legislative Branch of the State; but mindful that the Roman Consuls, although annually elected even, contrived to usurp power until they became dictators, condemning the maxim that a king could do no wrong, and impressed with the fact from sad experience, that princes and ministers of State were not angels of Grace, carefully provided for usurpation of power and all misbehavior in office, the *great constitutional, conservative remedy of impeachment and removal.*

IMPEACHMENT DIRECTED AGAINST MISCONDUCT OF  
OFFICERS.

That this remedy was principally directed against official misbehavior, and not against the personal crimes of the officer, is seen from the fact that the penalty upon impeachment was only removal from, and disqualification for office. They left the appointment and removal of all other officers, except judges, with the consent of the Senate, at the discretion of the President, for such cause as he might deem sufficient. And they left his removal to the discretion of the House of Representatives of the people, for such cause as they should judge sufficient, with the like advice and consent of the Senate. Judges being the only officers not Legislative who are not removable at the will of the President and Senate, either with or without cause, there has been no occasion to impeach any officer, save judges; so that impeachment has been comparatively rare. Indeed, there has been but four cases, two successful and two unsuccessful impeachments.

JUDGE PICKERING CONVICTED OF DRUNKENNESS.

The first was of Judge Pickering of New Hampshire in 1803, for drunkenness, the lowest form of offence, but a high misdemeanor

from the official position of the accused. His defence was that he did not get drunk as Judge but as a man, but the Senate decided that when the man was intoxicated, the Judge was drunk, and removed him from office. His being but a fault of the head and not of the heart, the Senate did not give judgment to disqualify him from holding office thereafter.

JUDGE CHASE IMPEACHED FOR MAKING A SPEECH  
AGAINST UNIVERSAL SUFFRAGE.

In 1804, Judge Samuel Chase, of Maryland, was impeached for arbitrary and illegal conduct on the bench, and for making an inflammatory political harangue, "with intent to excite the fears and resentment of the Grand Jury, and good people of Maryland, against their State government and Constitution, a conduct highly censurable in any, but peculiarly indecent and unbecoming in a Judge of the Supreme Court of the United States."

Upon examining the evidence, it appears that Judge Chase, at the conclusion of his charge, made a speech, to the Grand Jury, against the universal white suffrage law of Maryland, contending that it was not expedient to let men vote who did not own property.

The Judge's observations are singularly temperate as compared with the speeches we have been lately accustomed to hear from high official sources, and yet nineteen (19) Senators, Democratic Senators, found him guilty, while fifteen (15) Senators, Federalists, voted not guilty. This was a larger vote against him than was given upon either of the other seven articles of impeachment.

A POLITICAL SPEECH IS AN IMPEACHABLE OFFENCE.

This, then, establishes the rule that in the judgment of the majority of the House and Senate of that day, some of them the very men that helped frame the Constitution, a political harangue by a great officer might be cause of impeachment and removal. Indeed, the contrary was not contended by the counsel for Judge Chase; they only insisted that his speech was not obnoxious, but in this they were overruled by a majority of that august Court.

In 1831, Judge Peck of Missouri was impeached for the arbitrary and illegal imprisonment of one Lawless, a lawyer, but the impeachment failed for want of proof.

JUDGE HUMPHREYS IMPEACHED FOR ADVOCATING  
THE RIGHT OF SECESSION.

The last and most interesting case of impeachment at the present juncture was that of Judge Humphreys of Tennessee upon the complaint of Andrew Johnson, in June, 1862. One of the charges against Humphreys, of which he was unanimously found guilty by the Senate, was, that at Nashville, on the 29th day of December, 1860, at a public meeting, he "did then and there publicly declare that it was the right of the people of said State by the ordinance of secession to absolve themselves from allegiance to the Government of the United States, the Constitution and laws thereof." Among the articles of impeachment against Humphreys was a charge that as confederate Judge after the secession of Tennessee, he had decreed the confiscation of the property of Andrew Johnson. Upon this charge he was acquitted.

This case is exceedingly instructive. It determines that a speech may be an impeachable offence. Every Senator, 35 in number, Democrats included, voted that a political speech by a United States officer in a public meeting before the war, advocating secession, was a high crime and misdemeanor. But Judge Humphreys only advanced publicly the right of secession which had been advocated in the South for thirty years by Calhoun and his disciples. How much would have been saved to the country if the first utterer of it had been impeached! What a lesson is taught us that the first utterances of officials dangerous to liberty and law should be promptly punished, however high the offender may be. Let justice be done though the Heavens fall!

ANDREW JOHNSON COMPLAINANT IS ESTOPPED TO  
DENY THE POWER OF CONGRESS TO IMPEACH HIM.

Again: Andrew Johnson was a complainant in this case, so that he is concluded by it to deny, 1st. That an improper public speech of a high official is impeachable.—Second. That a House of Representatives from which eleven States are excluded is not a Constitutional House, with the power of impeachment, and that a Senate from which twenty-two members are excluded are not a Constitutional Court to try and determine an impeachment.

Humphreys, when summoned before the Senate, refused to appear, and was tried and convicted in his absence. So that Andrew Johnson, the complainant, and every Democratic Senator of that day and a majority of the Republican Senators of the present Senate are concluded by their votes and acts under their solemn oaths, upon every disputed question that would possibly arise upon an impeachment of the President of the United States, save one which we will directly discuss. Let us repeat, the President, House and Senate have solemnly committed themselves to the proposition, that a House from which the Representatives of eleven States are excluded, is a Constitutional House for the purpose of an impeachment of a high officer of the United States.

A SENATE WITH ELEVEN STATES OUT A LEGAL COURT.

2nd. That the Senate from which the members of eleven States are excluded and some of them expelled, is a legal High Court of Impeachment to try any such officer, although it may be certain that if the excluded members were present the offender would be acquitted, because nobody believes that Benjamin, Slidell and Davis would have found their brother secessionist Humphreys guilty if they had been present, and the twenty-two votes of the revolting Senators, more than one-third, would have acquitted him.

ADVOCATING AN UNLAWFUL ACT A HIGH CRIME,  
WORTHY OF IMPEACHMENT.

3rd. That the advocacy by a high officer of the United States of an unlawful proposition in a political speech is sufficient ground of impeachment. Therefore that mere words are sufficient without any overt act.

THE ACCUSED MAY BE HEARD IN HIS ABSENCE.

4th. That if the accused neglects or refuses to appear before the Senate when summoned, he may be tried, convicted and deposed from office, in his absence.

The only remaining question, not settled by this precedent is, whether the Senate, when sitting as a high Court of Impeachment, can bring the offender before it and suspend, or remove him from office during the trial?

ALL THE POWERS OF IMPEACHMENT DERIVED FROM  
ENGLISH LAW.

When the Constitution was framed the legal terms used in it were wholly taken from



English law, and its provisions were assimilated to the Constitutional history of the mother country. When therefore our fathers provided in the Constitution for "trial by jury," they left it to the English common law to define what a jury was and how the trial should be conducted. So when the Constitution speaks of "a suit at Law or Equity," it leaves the definition and course of proceeding to the English laws. So when a felony is mentioned, we must go to this law to ascertain what a felony is, and these illustrations may be multiplied almost indefinitely. So when the "sole power of Impeachment" is given in the House of Representatives we look to the customs and law of Parliament to ascertain what that power is and the manner in which it may be exercised. So when the Constitution gave to the Senate "the sole power to try all impeachments," we are remitted to the precedents of the House of Peers to ascertain how that power shall be exercised. It will also be observed that whenever the framers of the Constitution intend to limit that power of the House or Senate in impeachment, or to vary the manner of its exercise, they do it by express words. For example: when the Senate is sitting as a Court of Impeachment, it is provided that "they must be upon oath or affirmation," although the Peers voted upon honor only.

It being well known that the House of Lords had frequently condemned to pay a fine, as in the case of Lord Chancellor Bacon, or imprisonment or death, those impeached before them, our Constitution restricts the judgment of the Senate to removal and disqualification from office only.

All other incidents of the impeachment, the trial, the power of the Senate to bring the accused before it, to require him to answer, to summon witnesses and punish for contempt, and the forms of its judgment are left to be gathered from the customs of Parliament. And it will be seen that in the impeachment and trial of Judges Pickering and Chase, in 1803 and 1804, the same men who framed the Constitution sitting in the House and Senate, conducted those cases strictly according to the English precedents in all points not changed by the express words of the Constitution.

WHEN AN OFFICER IS IMPEACHED HE MAY BE SUSPENDED AND REMOVED FROM OFFICE.

Now, it was familiar History that the Commons of England, when they impeached any person not a Peer of the Realm, took him into custody of their Sergeant at Arms, as soon as the impeachment was determined upon in that body, and delivered the prisoner over, still in custody, to the House of Lords, when the articles of impeachment were placed before the Peers, as in Doctor Sacheverell's case, impeached for preaching a sermon, or held him to bail as in Seymour's case. The accused persons being in prison were of course suspended from the exercise of their official functions. A question arose, however, whether when a Peer of the Realm was impeached he could before trial be suspended from his function in the House of Lords.— This was denied by the Lords and asserted by the Commons, as it would seem to be manifestly improper for an officer to exercise the duties of his office while being tried for high crimes and misdemeanors.

THIS POWER OF REMOVAL WAS PUT IN THE CONSTITUTION.

To provide against such controversy in the future, in our Constitution it is declared that "The President, Vice President and all other Civil officers may be removed from office upon impeachment for, and conviction of, Treason, Bribery, and other high crimes and misdemeanors."

If the officer could only be removed or suspended from the exercise of his office upon conviction, that being against the custom of Parliament, it would have been expressly so enacted in the Constitution, but the exact contrary are the words of the Constitution, the officer being removable "upon impeachment for and conviction of high crimes and misdemeanors." And the higher the officer, the more need that he shall be removed from office lest he shall by influence corrupt both witnesses and Judges, and that is possible.

OTHERWISE THE CRIMINAL COULD APPOINT HIS OWN JUDGE.

A single illustration will serve to show that it could never have been intended by the framers of our Constitution in their wisdom to permit the President, while he was being tried for the highest crimes, to exercise the functions of his great office. The Chief Justice of the United States can alone pre-

side on the trial of the President, suppose that after the impeachment and before the trial the Chief Justice should die, then it would be the constitutional right of the President, as well as his duty, if his office continues to him until conviction, to appoint a Chief Justice to preside at his trial. "Will any man with a mind not bordering on insanity" claim that the wise men who framed our government intended that the greatest of criminals while on trial should appoint his own Judge to try him? Besides, if the people of the United States by their Representatives ever do impeach the President for high crimes and misdemeanors against our liberties, he will have business enough on his hands to defend himself from that charge, not to find time to perform the executive duties of President of the United States.

#### HOW THE TRIAL OF AN IMPEACHMENT IS CONDUCTED.

It may not be uninteresting to observe that by the English law the incidents of a trial of an impeachment differ from trials in Court. When the Representatives of the whole people vote to impeach an officer, the proceeding is of so solemn a nature that the particulars of the offence, as in the case of an indictment, are not required to be written out, until the offender is charged before the Senate, sitting as a Court. The proceeding in such case is this: A message is sent to the Senate, informing that body that an impeachment has been found, and that articles will be preferred, and if the offences are grave, praying the offender may be held to answer, if not then in custody. Thereupon the accused is either by summons or arrest brought to the bar of the Senate and the accusation read to him, and his answer taken. From that hour his person is in custody of the Court, and he has no farther official functions.

#### NO SENATOR CAN BE CHALLENGED BY THE ACCUSED.

Another peculiarity in a trial before the Senate is that it is no cause of challenge to a Senator as it would be to a juror that he had formed or expressed an opinion on the merits of the case, or even that he is related to the accused; the brothers and sons of the prisoners at the bar of the House of Lords frequently voting on the question of their guilt or innocence. The reason of this is that there can be no talesmen to supply the

place of a Senator if he should be challenged by the accused.

#### COMMON FAME SUFFICIENT TO IMPEACH.

There is still another distinction from ordinary trials, in case of impeachment, which it is interesting to notice, and that is that the Representatives of the people may proceed against high officers upon common fame or common report of their misconduct, and the reason given for this apparent anomaly is that if it were not so, great offenders would be the only ones safe in their crimes, because when in power and authority no private person would venture to prosecute or make known their wrongs, so that until they are impeached, and deprived of power and official station, witnesses would not dare to come forward and give evidence against them. Besides, impeachment is an act of Government, and all governmental acts are based upon facts of which History and common fame are the only evidence.

#### NOTHING BUT DISQUALIFICATION FROM OFFICE TO BE THE SENTENCE.

Another and amusing popular mistake upon the effect of an impeachment, that the sentence may order the execution of the party convicted, would not deserve notice except that it has obtained favor with the President of the United States, who says in one of his speeches: "Would they take off my head, as they did the head of James the Second?" The President is at fault. By the Constitution, only the official head of the officer is, to be taken off, of which he himself has taken off so many. Farther—James the Second's head was never taken off at all except in this wise: After having misgoverned his Kingdom, and disaffected his people, he became alarmed for his safety, threw the great Seal of England into the Thames, and ran away to France and took his head off with him, an example well and highly proper to be followed by any ruler in like case offending.

#### THE IMPEACHMENT LIVES THOUGH CONGRESS DIES.

Another question has also been much mooted: Whether a Parliament presenting an impeachment being prorogued or dissolved, the impeachment and trial might be carried on by a new Parliament; or in other words, if a Congress end by its limitation a new Congress can prosecute an impeachment be-

gun by a former Congress. In early times, when the favorites of the King were impeached, the Monarch, to save his creatures, used to dissolve the Parliament to put an end to the prosecution; but afterward it was resolved and finally determined in the case of Warren Hastings, that the impeachment did not die with the Parliament.

We thus have carefully examined the constitutional remedy for usurpation and official misconduct. We have seen that it is aptly fitted to be, and ought to be applied at the nearest approach of danger or wrong without waiting till they have ripened into outrage and disaster.

#### IS ANDREW JOHNSON GUILTY OF IMPEACHABLE OFFENCES?

The only inquiry that remains to us is whether common fame or current history charges any officer of the government with declarations or acts dangerous to the permanency of our institutions and the liberties of the people, so that they are satisfied that for the "general welfare of the United States" this remedy ought to be applied, as well as to meet the beginnings of wrong in high places as to punish the offender as a warning to all others daring thus to sin. Because if the judgment and conscience of the loyal people of the country are not satisfied of the guilt accused and the righteousness of his punishment, he becomes not a criminal but a martyr, whatever may be the official verdict against him. And indeed in this, as in all other governmental action, the representatives of the people should only echo their thought and do their behest.

What, then, is the judgment of the people upon the official conduct of the "Vice-President of the United States discharging the powers and duties devolved upon him by the death" by assassination of the President, such being the exact constitutional definition of his present office?

In this inquiry let us proceed upon the "evidence" by which he might be impeached: well-grounded common fame.

As one of the people, then, I charge that Andrew Johnson has committed high crimes and misdemeanors in office, in many particulars, but which may be grouped under these general charges:

#### DRUNKENNESS IN OFFICE.

1st. Therefore I charge Andrew Johnson, as well while Vice President, as while discharging the powers and duties of President of the United States, with degrading and debasing, even while taking the oath of office, the station and dignity of the office of Vice President, and that of President, by indecently exhibiting and exposing himself upon official and public occasions in a state of drunkenness, by the voluntary use of intoxicating liquors, to the great scandal and disgrace of the whole people of the United States and the government thereof.

#### EVIDENCE OF THE CHARGE OF DRUNKENNESS.

As to the specification and evidence of the first charge of public drunkenness, if common uncontradicted fame speaks truly, and that it does in this instance, the blush of shame which mantles the cheek of every true American when the occurrence is mentioned, is the highest guaranty—then every Senator who witnessed the disgraceful stammering tongue of the Vice President as he mumbled his oath of office, and slobbered the Holy Book with a drunken kiss, will be at once the witness and judge, and to other like public and disgraceful exhibitions almost every depot and station master between Washington and St. Louis can give evidence.

Indeed, it were Christian, kindly charity to believe, that the speeches made on those occasions had that excuse, because then they would be errors of the head, wherein an "enemy had been put to steal away the brain," and might be reformed; but a heart that could send forth such utterances, specially that made by Andrew Johnson at Niagara, wherein he said he was glad that by the Constitution he was made President, can never be made better save by the omnipotence of Divine Grace.

That I may do Mr. Johnson no wrong, I will give his words as reported on that occasion: "The victory was obtained and I was made Vice President of the United States. Can't you see the gradation comes along regularly? And then by the Constitution of the country I was made President. I am glad of it."

Is Andrew Johnson guilty or not guilty



of this charge and specification? How say you, fellow citizens, was he drunk or sober?

INDECENT, INFLAMMATORY AND DANGEROUS  
HARANGUES.

2nd. I charge Andrew Johnson, Vice President, discharging the powers and duties of the President of the United States, and sworn faithfully to execute the same, with officially and publicly making declarations and inflammatory harangues, indecent and unbecoming and in derogation of his high office, dangerous to the permanency of our republican form of government, and with intent and design to excite the ridicule, fear, hatred and contempt of the people against the legislative and judicial departments thereof.

EVIDENCE OF DISGRACEFUL AND DANGEROUS  
SPEECHES.

The second charge of making indecent and inflammatory harangues, degrading the position as the Executive head of the most civilized and intellectual nation in the world, has many specifications, and is sustained by much evidence. The obnoxious declarations of Mr. Johnson are all of them public speeches made either to committees or from the rostrum, in defence of his policy, or attacks upon individuals or other branches of the Government. They may be divided into two classes, the indecent and the dangerous and inflammatory. Can there be anything more indecent and degrading to the office of President of the United States than the exhibition made by Andrew Johnson on the 22nd of February last in that speech, for which there is, unfortunately for the honor of the country, not the apology that he was drunk. His characterization of the editor of a leading journal, who certainly up to that time had dealt with him in courteous language, as a "dead duck." The tone, the manner, the occasion, are all criminally beneath the dignity of the office he occupies. Again, on that most unhappy funeral journey, his vituperative denunciations by name of some of the best and purest of the land; calling a Senator, a Representative, and a gifted orator, each and all of them true and tried patriots beyond doubt or cavil of any sound mind, "traitors," and threatening them with death, to raise a vulgar laugh.—

His threats at St. Louis to "kick out" of office whoever should oppose his policy; his vulgar attack, at the same place, upon a law which he himself had signed, appealing to prejudice against the blacks by arguing that Congress had given the negro soldier (\$100) one hundred dollars bounty, and to the white soldier only fifty dollars. His perversion of the holy Scriptures and blasphemy at Philadelphia, by enunciating from the balcony of the hotel to a deputation of tailors, that the "Great Father of us all was the first tailor," accompanied by the announcement that "he did not want to be thought facetious in so asserting." Outraging the religious sense of the whole community by comparing the radical to the Savior, using his holiest name, never to be breathed by a Christian public man save with veneration, as the drunken catchword of a blackguard harangue, and so on and on *ad nauseam*.

Has a shocked, outraged, humbled, shamed and indignant people no remedy for such disgusting humiliation of their pride of country and National self-respect? Must they endure it two years and more longer? A like record made against any other high officer of the United States to any former President, would he not have removed him for cause? Shall the spectacle remain forever unrebuked of the President debasing himself so as justly to draw from the crowd witnessing the exhibition, such expressions as "Go it, Andy"! "Keep your temper, Andy"! "Don't get mad, Andy"! And for the President to reply, "I left my dignity at Washington"! May not the people say you have quit the dignity of your office once,—you shall never again resume it? Are the decent, respectable and intelligent people of the country always to have their cheeks burn with shame whenever such conduct of their Chief is discussed, because the remedy has never been applied or an example made? Is the highest office in the land, the Presidency, to which it is our proudest boast the humblest American boy may aspire, to be so degraded that to any well-bred boy it will not seem worth the aspiration; and yet to be neither remedy or punishment? No—so long as the conservative remedy of impeachment exists, the American people will preserve the Presidential office honored by Washington by punish-

ing this its degradation as the highest of all misdemeanors.

We have seen that the great danger to liberty is to familiarize the people to the thought of the loss of it, so that the public mind is prepared by demoralization to submit to the fact without shock. So history teaches that whenever any attempt has been made by a despot to destroy the Legislative or popular branch of the Government, he has always begun by decrying and making it odious.

Therefore we find Andrew Johnson receiving a Committee of the Philadelphia Convention on the 18th of August, at the head of which was a Senator from Maryland, of that same Congress, with the declaration that "We have seen hanging on the verge of the Government, as it were, a body calling itself and assuming to be the Congress of the United when it was in fact but a Congress of a part of the States; and we have seen *such a Congress* pretending to be for the Union, when every single step it took was to perpetuate dissolution and to make disunion permanent." This was followed by denunciations of Congress, "as a body of disunionists" an "unconstitutional, domineering and tyrannical Congress" and so on with every phrase of hatred, contempt and ridicule that could be used as descriptive, accompanied with suggestions as to the Acts and Laws enacted by Congress; which if just and true would have convinced the people that the legislative branch of the Government was unworthy of their countenance or support, and the laws passed by it unconstitutional and void. Is it any defence to say that these assertions were untrue, and so ridiculously untrue that nobody believed them and therefore they did no mischief? Does not their falsity make the strongest element of the great crime of uttering them? If the Chief Executive can thus, without check, assail Congress (and it is needless to say that it was never done before) will not the precedent avail some abler and more popular, but no more wicked man to successfully depose Congress, and make himself the Dictator, which Mr. Johnson thought it possible himself to be?

The intent and motive of these declarations are obvious when taken in connection

with other speeches made during the same journey. It was to alarm the people as to the conduct of Congress, to prevent members from being elected who would stand opposed to Mr. Johnson. What else could be the object of such declarations as this: "If you do not stay Congress by your suffrages, you will have civil war—not a war between the North and the South, but an internecine war." "I called upon your Congress that is trying to break up the government," and so over and over again in every form of expression. With what hope was this done? So that if a majority of rebel sympathizers were chosen he might declare them in conjunction with the representatives of the South the Congress, to the exclusion of the loyal majority? What motive for this course, you may ask, could Mr. Johnson have? He everywhere declared that he had filled all the offices under the constitution that man could fill. The outcroppings of his mind peep from his mouth. "Why," he says, "with the Freedman's Bureau with agents and satraps in every town and school district, with fifty million of dollars in my pocket, and the army at my back, I could proclaim myself Dictator." This was at Cincinnati; but at Niagara Mr. Seward, subtle and wily, had foreshadowed the same proposition in these words: "The President has struck the key note of the political argument to-day. 'The Union must not, shall not be divided.' The question is between the President and the Congressmen" More boldly at Battle Creek, Michigan, Mr. Seward says: "Those that want thirty-six States say so." [Voices respond—Ay! ay!] "Do you want Andrew Johnson President or King?" Mr. Seward never says anything without a purpose. What was that purpose? That the loyal people of Michigan who heard it understood what he means was evident, for they refused to hear him any further.

#### THE JUDICIARY ATTACKED.

Nor is Congress the only branch of the Government attacked by the President. The Judiciary also was to be "made odious." Therefore, when the loyal people of Cleveland put the very pertinent question to Mr. Johnson—"Why don't you hang Jeff Davis?" what true man was not shocked at the an-

swer?—"Have you not got the Attorney General? Who is your Chief Justice who has refused to sit on the trial?" If it is true that the Chief Justice has refused to sit on the trial of a criminal, however great, when it was his duty so to do, he ought to be impeached; and if the public charge of Mr. Johnson against the Judiciary is false, then it is malicious, and he ought to be removed from an office which gives him position falsely to malign the Judiciary of the United States by accusing its Chief Justice of dereliction of duty.

SHALL WE WAIT TILL CONGRESS IS DEPOSED BEFORE WE IMPEACH HIM?

I have examined the specifications under this charge with a greater extent than I propose to do the others because in the apprehension of some minds some overt act must be committed before the President can be impeached. What! Shall we wait till he has actually deposed Congress before we impeach him? That being done what body is to be his accuser or trier? Shall we loiter till a wicked "humble individual" has actually overturned our Government, and "by his satraps and backed by the army" made himself Dictator, and then attempt impeachment?

SHALL JOHNSON BE KING?

No! fellow citizens, let us proceed to meet the beginnings of mischief by the legal, conservative, radical and constitutional method of impeachment. Let the people teach the incumbent of the office of President that he is not such stuff as Dictators are made of—and if we are to have a King, he will not be King *Andrew the Indecent*. For his blasphemous exhibitions, his debasement of his high office, his revolutionary, inflammatory and unbecoming attacks upon the Congress of the people; his false accusations against the Judiciary; his insult to the virtue and intelligence of the people, in daring to breathe the thought that they would submit their liberties to any Dictator or tyrant, and least of all to him; of such high crimes against the people and misdemeanors against the country. How say you, fellow citizens, is Andrew Johnson guilty or not guilty?

USURPATION OF LEGISLATIVE POWERS.

3rd. I charge Andrew Johnson with wickedly, tyrannically and unconstitution-

ally as Chief Executive officer usurping the lawful rights and powers of the Congress of the United States.

EVIDENCE OF USURPATION OF POWER.

Upon the third charge of usurping the powers of Congress, the specifications are many and the evidence open and notorious. Time will permit to glance only at one or two of them.

ALL CIVIL GOVERNMENT WAS DESTROYED.

When the last rebel soldier had surrendered to our victorious armies and armed resistance had ceased, what was the exact state of things in the revolted States? An insurrection had ripened into a public territorial war, recognized by the executive, legislative and Judicial Departments, between the United States and the forces of the revolted States. All the citizens, then, in those States, had become by their own, and the acts of their communities, and the effect of of domestic violence and war, armed public enemies; and in the language of Andrew Johnson's proclamation—"rebellion in its revolutionary progress had deprived those States of all civil Government."

THE REBELS HAD BECOME PAROLED PRISONERS OF WAR, WITH WHOM JOHNSON COULD NOT MAKE PEACE.

Armed hostilities had ceased. Their people had become disarmed public enemies, surrendered as paroled prisoners of war. If we look at them as belligerents we had captured them and all their rights. If we look at them as rebellious subjects, they had forfeited their lives, their property and all their rights by treason and rebellion. Whichever way you take it, they had lost all, we had gained all, by capture in war and from forfeiture by crime. By whom then was peace to be concluded, hostilities ceasing? By the President alone? Certainly not. A peace in a foreign war cannot be made by the President without two-thirds of the Senate. Much less in a civil war, where the duties of rebellious citizens and the rights which ought to be restored to them must be settled by law. Who could enact any plan, policy, or method of reorganizing these conquered territories "deprived of all civil Government"? Congress alone.



HE USURPS THE POWER OF FORMING STATE CONSTITUTIONS.

Andrew Johnson attempted it. He appointed rebels Governors for seven of them. By what right? He directed those Governors to "prescribe rules and regulations for convening a convention" composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States and *no others* for the purpose of altering and amending the Constitution thereof." Strictly and grammatically construed he thus ordered a convention to alter the Constitution of the United States; but we must not expect too much of a Head of the Nation who did not know that James the Second did not lose his head. Taking it however as meant, by what law, constitutional or other, was all this pretended to be done? I venture to say as a lawyer that no single provision of law or constitution can be found that will give color of justification to this unheard of procedure. Looking at Mr. Johnson's proclamation for reorganizing North Carolina, I find his claim of power to do it in these words:—"Rebellion has in its revolutionary progress deprived the people of the State of North Carolina of all civil Government, and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing to them the enjoyment of a republican form of Government," I, Andrew Johnson, do, etc. etc.

CONGRESS MUST MAKE LAWS TO CARRY OUT ALL POWERS.

If one had time to be exact in criticism it could be said that there is no constitutional obligation to the people of North Carolina to secure them in the enjoyment of a republican form of Government. There is such obligation to the *State*. But granting the obligation—on whom does it rest? On the United States,—not on the President. Whose duty is it to provide for the carrying out and enforcing this obligation? "Congress," says the first article of the Constitution, "shall have power to make *all* laws necessary and proper for carrying into execution all powers vested by this Constitution in the Government of the United States, or in ANY DEPARTMENT OR OFFICER THEREOF."

HE DID NOT GIVE THE STATE A REPUBLICAN GOVERNMENT.

But did Andrew Johnson give to the people government republican in form? What is a republican government? It is that under which a majority of the people can take part in electing their own rulers and enacting their own laws. Excluding the negroes, as the proclamation does—will anybody pretend that a majority of the white people even of North Carolina were loyal May 29, 1865, when the rebel soldiers had just got home?

HE HAS NO RIGHT TO SAY WHO SHALL OR SHALL NOT VOTE.

By what right does the President by executive order or proclamation say who shall or shall not vote in any part of the United States? Napoleon, beside Andrew Johnson, is the only ruler in the present century who has dared do that—and he let everybody, black and white, vote.

ALL HIS ACTION IS USURPATION.

The whole action of the executive in this behalf was a most palpable and flagrant usurpation of the power of Congress; acts which even the Judges of the Southern States have declared unconstitutional, although done in their behalf.

The wicked object and intent of this usurpation is seen in the fact that Andrew Johnson has ever since fought and denounced Congress for not permitting its consummation, although by its fruits undoing almost all that was done by the war in bringing the South to such a proper spirit of subjugation as to make a truly loyal man safe there in his home.

HE HAS DISPOSED OF MILLIONS AGAINST LAW.

Again, the Constitution says that Congress shall "make rules concerning captures on land and water," "to *dispose of* and make all needful rules and regulations respecting the *territory or other property* of the United States." Yet, disregarding these constitutional provisions, Andrew Johnson, by executive orders, has *disposed of* millions upon millions of property of the United States captured in war, such as vessels, steamboats, railroads, cotton, tobacco, and this, too, in defiance of laws of Congress which required

him to put such property into the Treasury of the United States to aid in reducing our overburdened taxation.

#### HE ILLEGALLY RESTORES ROBERT LEE HIS PROPERTY.

The telegraph now informs us that such captured property is restored to unpardoned as well as to pardoned rebels, as witness the return to Robert E. Lee, of the property captured at Arlington in that advance in May, 1861, wherein the gallant soldier and boy friend of Lincoln—ELLWORTH was murdered. Andrew Johnson could with the same constitutional right have given the bones and ashes of this, the noblest first martyr, to the first great unpardoned traitor of the rebellion! And he may, too, by the same right, give back the land of Arlington, captured at the same time, the now sacred repository of many, many thousands of our noble dead, if you do not stop him in his unconstitutional, mad career.

But time admonishes me that I can only glance at but not argue these several charges.

#### CORRUPT USE OF THE APPOINTING POWER.

4th. I charge Andrew Johnson with wickedly and corruptly using and abusing the constitutional power of the President of nominating to office and filling vacancies in office during the recess of the Senate, and removing from office with intent and design to undermine, overthrow and evade the power of advising and consenting to appointments to office vested in the Senate by the constitution, and for the farther corrupt purpose of controlling the freedom of the election by the people, of members of the House, in order to put the House of Representatives in the hands of men lately in rebellion against or evilly disposed toward the government.

#### THE EVIDENCE OF HIS ABUSE OF THE APPOINTING POWER.

The fourth charge of improperly and wickedly using the power of appointment is so patent, so flagrant and so universal that a simple statement of it is sufficient for conviction.

There is no true loyal man whose judgment is not instructed upon this offence. There have been more than two thousand

two hundred Postmasters alone, since the first day of July last, removed from office in obedience to the declaration of Andrew Johnson that he would "kick out" all those who did not oppose Congress. What Congress? Why, the representatives of the people! Thus more than two thousand of the servants of the people in a single Department have been removed from the service of the people because they would not aid another accidental servant of the people in opposing and thwarting the constitutional acts of the Representatives of the people.

Can it be pretended, short of insanity, that such a use of the appointing power is proper and constitutional, or that the President who does it in plain opposition to the people ought not to be removed from his power to do more mischief?

But still worse. The Constitution restricts the power of "Appointment" to the Senate, giving to the President the power of *Nomination* only when the Senate is in session, leaving with him to fill vacancies which may happen during the recess by giving commissions which expire with the end of the next session of the Senate.

Mr. Johnson has under this provision, in more than thirty instances, put men in office at the end of the session who had been refused appointment by the Senate, and some of them twice and thrice over. The vacancies happened during the session and not in vacation; and by this means he deprived the Senate of all control over appointments which the Constitution gives it.

What was the object of this usurpation? To overthrow the loyal majority of the Senate. To enable the President to force upon it twenty members from rebel States.

This practice is attempted to be justified by the course of General Jackson in removing from office upon the coming in of his administration. But the theory of Jackson was this: that the Executive head of the Government having been changed by the vote of the people electing himself, that therefore the people desired all executive officers to be changed in order that the executive branch of the Government might be in harmony in all its parts. There was good sense in this theory of removal; but it was not carried out by Jackson by usurping the constitutional powers of the Senate. In his case, Mr. Johnson has removed the officers who were put in by Lincoln at the same time and upon the same platform of principles with himself. Had he waited as Jackson did till the people had spoken, he would have removed but few for opposing his policy; but it is notorious that his removals were made to bend the people to his will.



Fellow citizens, is it not time that these removals from office without cause, and to pamper the ambition or gratify the passions of any one man, be stopped? It will never be done if we let Mr. Johnson's precedent go unpunished.

#### ABUSE OF PARDONING POWER.

5th. I charge Andrew Johnson with improperly, wickedly and corruptly using and abusing the Constitutional power of pardons, for offences against the United States, and in order to bring traitors and rebels into places of honor, trust and profit under the Government of the United States, and to screen whole classes of criminals from the penalties of their crimes against the laws thereof.

As to the fifth charge—the abuse of the power of pardons. While the fact is admitted that thousands of rebels have been pardoned for their crimes without investigation, and solely upon the recommendation of other rebels, yet it is said, as the Constitution gives the President the unlimited power to pardon, why may he not pardon as many as he pleases without doing any legal wrong? The answer is obvious. There are many powers in Government right if properly used; criminal if used wrongfully or with a wrong motive. Let me illustrate. Almost every Governor of a State has the unlimited power of pardon. Suppose a Governor in mere wantonness should pardon and set free at once all the convicts in the Penitentiary. Would any man doubt that that would be a great crime for which he might be impeached? Yet there is no statute law against it. Suppose he should pardon one murderer that he might revenge himself upon his enemy. Would any one doubt that such pardon was a crime because of the motive, although the Governor had the power to do it? Now what has been the motive of Andrew Johnson for his indiscriminate pardons. It was to restore property to rebels which by the confiscation laws belonged to the United States, or to enable rebels to hold office and thus to conciliate them to himself. No better illustration of the design of this exercise of the pardoning power can be given than the pardon of John T. Monroe, that he might be Mayor of New Orleans.

It bore its appropriate fruit—*riot, bloodshed and murder.*

#### APPOINTING REBELS TO POWER AGAINST LAW.

6th. I charge Andrew Johnson with knowingly and wilfully violating the constitutionally enacted laws of the United States by appointing disloyal men to office, and illegally and without right, giving to them the emoluments of such office from the treasury, well knowing the appointees to be ineligible to office.

The sixth charge, of knowingly appointing men to office who were ineligible, is supported by instances almost without number. For Mr. Johnson appointed seven provisional Governors—not one of whom could take the oath prescribed by law for every United States officer, that he had never aided the rebellion, and Mr. Johnson must have known that they could not hold office, because he had pardoned most of them as rebels, in order they might hold their office. But, far worse, there was no law for appointing anybody, loyal or disloyal, to such offices, because they were not established by law. It was a felony to take any money out of the Treasury to pay their salaries. The money was paid out of the contingent fund of the War Department, and thus usurpation evaded the law. Was not the money the property of the United States all the same? Allow this to go on unrebuked, and the next Usurper will see to it that all the money of the United States is a contingent fund for his particular use.

But to crown all this, hundreds of offices were filled at the South in the several departments by men who were known rebels. When Congress enquired into these acts, what do you suppose was the answer? Why that there were no loyal men in the districts to fill the office. What an excuse! If there were no loyal men, what the need of the office at all for disloyal men? Must the office be filled against law? Were there not hundreds of maimed and wounded soldiers, black and white, who could have been sent South, who would have filled those offices a precious sight better than Andrew Johnson does the one he has dropped into?

#### REFUSING TO EXECUTE THE LAWS.

7th. I charge Andrew Johnson with knowingly and wilfully neglecting and refusing to execute and carry out the constitutional laws of Congress in the insurrectionary States in order to favor and encourage men lately in rebellion and in arms against the United States to the oppression and injury of the loyal and true citizens of such States.

To the seventh charge, that he has refused to execute the laws, is too notoriously and sadly true to be controverted. I will detain you by noticing an instance or two only. Congress passed a law that all property used in aid of the Rebellion should, when captured, be prize of war, and thereby the property of the United States. That law, so just and proper, is still unrepealed. We all remember what tremendous aid was given to the armies of the Rebellion by the energetic use of the Southern railroads in transporting troops, most of them being run by the companies that owned them. These roads were all captured, but every one of them has been given

back to their real owners, although the interests of the Northern stockholders in them had been confiscated by the rebels.

Thus many millions of property of the United States have been given away by the Executive against law. The question is not whether it were best to confiscate this property,—that is for Congress to determine, and they did so by passing this law. The vital inquiry is whether the Executive usurping the power of Congress, can nullify the law.

Again, Congress passed a law that the property of certain leaders of the Rebellion, whenever it came into our possession, should be confiscated to the use of the armies of the United States. That law is unrepealed. Yet Andrew Johnson, sworn to execute the laws which made it his duty to confiscate this property, in the words following "It shall be the duty of the President to seize and use the property aforesaid for the purposes aforesaid,"—has stopped all process of confiscation or seizure, although in his proclamation of restoration he orders the Attorney General to have the confiscation laws executed. Thus showing that he knew the law but wilfully defies it.

Again, Congress ordered a direct tax of twenty millions. We of the loyal North paid our portion of it in addition to our other burdens. The Southern portion was made a lien upon their property and land, and in many States the Tax Commissioners were proceeding to collect the tax according to law, when they were stopped by Executive order, and the taxes remain uncollected to this day. If these laws ought not to be executed, let them be repealed; but while in force let them be executed, or the officer failing in his duty be punished for it.

I have yet, however, to see the message of Andrew Johnson to Congress urging the repeal of either of these laws.

Once more. The Civil Rights Bill was passed by Congress over the veto. Do we not hear daily of wrong and outrage and murder done upon the freedmen and Union men in every rebellious State? Have we not heard from official reports that in Texas a dozen murders daily of negroes are taking place without check, and that five hundred indictments for murders are still untried in that State alone.

Has there not been a score of convictions by competent Courts for felony and murder sent up to the Executive, and been before him for months, and are yet unexecuted, or pardoned; and for the murder of no colored man has a white man, although convicted, been allowed to be executed by Andrew Johnson.

Military orders protecting loyal men have been deemed inoperative, because of the Civil Rights Bill, and that is made a dead letter by the clogs of the Executive, until Sheridan as-

serts that United States troops "ARE UNSAFE IN RECONSTRUCTED JOHNSONIAN TEXAS OUTSIDE OF THEIR OWN CAMPS." And yet with all this outrage, crime, anarchy and murder unchecked, men doubt whether the cause and occasion of it all in the Presidential chair ought to be impeached!

#### COMPLICITY IN THE NEW ORLEANS MASSACRE.

8th. I charge Andrew Johnson with unlawfully, corruptly and wickedly confederating and conspiring with one John T. Monroe, late a rebel against the Government of the United States, pardoned by himself that he might hold office, and other evil disposed persons, traitors and rebels, as well pardoned as unpardoned, to prevent, hinder and disperse a lawful, peaceable and rightful meeting and Convention of loyal citizens of the United States, then assembled in New Orleans to consider their constitutional rights and privileges, and to submit to the judgment of the people of the State of Louisiana certain propositions of Amendment to the Constitution of that State for their discussion and action as such Convention might rightfully do. And in pursuance of such unlawful, corrupt and wicked conspiracy, Andrew Johnson did incite, move and permit John T. Monroe and his rebellious and wicked associates to disperse and break up such lawful Convention and the members thereof to kill, assassinate and murder.

The eighth charge, complicity in the Massacre at New Orleans, has been so recently and fully discussed all over the Loyal States, and so fully shown officially by the report of the Military Commission and publication of despatches, that I need but remind you of one or two facts to fix the guilt.

That Monroe was pardoned, so he could be Mayor.

That he was in telegraphic and written correspondence with the Executive before the massacre in relation to it.

That the Executive communicates with him and the Attorney General, a pardoned rebel officer, instead of the Governor of the State, or the Union General in command.

The troops are placed at the disposal of these conspirators, and military orders are transmitted through pardoned rebels to a loyal officer. To conceal his participation in the crime, Andrew Johnson falsely charges it upon Congress.

He publishes garbled despatches of General Sheridan, giving account of the affair, after he has endeavored by a carefully worded, artful



leading despatch from himself to cause that General to throw the blame on the innocent.

Although five months have passed, and the guilty assassins have been made known to Andrew Johnson through many official reports, he has taken no steps to have them arrested or punished, and murderers walk abroad in noon-day untouched.

And why? Because the Chief Executive dare not touch them, lest their disclosures should implicate those confessedly in communication with them before the deed.

Fellow-citizens, how say you? Ought not the New Orleans massacre, the murder of Dostie, the assassination of Horton, to be investigated before the highest Court in the land with the highest criminal at the bar?

#### OBJECTIONS TO IMPEACHMENT NOW.

What is to be urged why these grave charges shall not be tried and punished if found true? We are told, because Andrew Johnson will now, after the rebuke of the elections, make concessions to Congress, and will make no more removals from office. Will that take away from us the disgrace of his public speeches and acts? Will that atone for the insult to the American people of threatening to make himself Dictator, and with civil internecine war? Will that put back into the Treasury the millions taken from it against law? Will that restore the Southern States to that fit condition for reorganization in which Andrew Johnson found them, and which too he has destroyed? Will that restore to life the unavenged, murdered freedmen and Union men in the South? Will that give back to his widowed wife, the assassinated Dostie, or put again in the pulpit, to preach the holy word, the murdered Horton?

#### LET US NOT BE DECEIVED AGAIN.

It is said Mr. Johnson will, to get universal amnesty, now be willing to advocate universal suffrage. Most offenders against the laws would be, but does that purge his offences against free institutions and free government? As soon as the Great Victory was won over the Rebellion, scheming politicians plotted to give up all that we had gained by arms, and the spirit of Rebellion grew rampant. Now that the people have won a great triumph by the ballot, let not the fruits of victory be lost by a new set of political manœuvres, and the reins of power again given to those who have betrayed us. It was then said we must give up all we had won because we had extorted by arms universal freedom: now it is claimed that we must yield all that justice demands because by the ballot we have forced universal suffrage. Must this government ever be carried on upon a wretched system of swappings and compromises? May it

never be administered upon the great principles of truth and justice, to the "end that it may be a government of laws and not men."

#### THERE IS NO DANGER FROM THE ARMY.

But it is said that if an impeachment is attempted, the Executive will resist by the aid of the army and navy. Then he will add treason to his other offences, and if he can successfully oppose the people in the exercise of their constitutional rights, then our liberties are indeed already gone forever.

If by the forms and in the manner prescribed by the Constitution, this government cannot examine, try and punish any criminals, however high in office, it is not worth preserving.

But let the timid fear not and the weak quake not. The Army and Navy are loyal and true, and will obey no illegal, treasonable orders from anybody; but if it were possible for them to do otherwise, they would be swept away before the majesty of a people rising as in '61 to preserve a Nation's life.

I have been told, indeed, that the Secretary of State has threatened that the Representative who voted an impeachment will find himself in that Old Capitol Prison! Be it so. The treasonable "tinkle of that little bell" that sounds that order will be the death knell of the Tinkler. I will not believe the threat was ever made. If it is made, let us see the recreant Representative of the people so great a coward as *not* to vote an impeachment, under such an Executive threat. It had been better for him he had never been born.

—"His country's curse, his children's shame,  
"Outcast of virtue, peace and fame."

We have paid 5 000,000,000 (five billions) of dollars and a half million of lives to preserve our free government. We will not yield it to usurpation now.

#### THE TRUE COURSE TO SETTLE THIS NOW.

It is said let us wait and see what the future course of the Executive may be. If a man cheat me once, it is his fault. If he cheat me twice, it is my fault. No! the promptings of self-preservation; the dictates of political wisdom; the inspiration of statesmanship, all teach that it is better to have this great trial of our government come in 1867, than postponed till 1869; then to be complicated with a Presidential election, and the question whether electors from rebel States are to dictate the choice of a President to the Loyal North, and also perhaps with a foreign war with all the power it gives to the Executive to control a free people. No! if that "little bell is to sound," it is better that its tinkle be heard now, when we have, and shall have for two years, a loyal majority of more than two-thirds in the government to muffle its clapper.

Such a contest, whenever it may come, will show that the strength, permanence and safety of this government rests not in Executive or legislative or judicial departments, not in the Army or Navy, but in the education, virtue and intelligence of the whole people, prizing their liberties, valuing their free institutions, proud of their country as the great exemplar to show mankind that equal power, equal laws, equal rights and equal justice are the TRUE ATTRIBUTES OF DEMOCRATIC ELECTIVE GOVERNMENT.



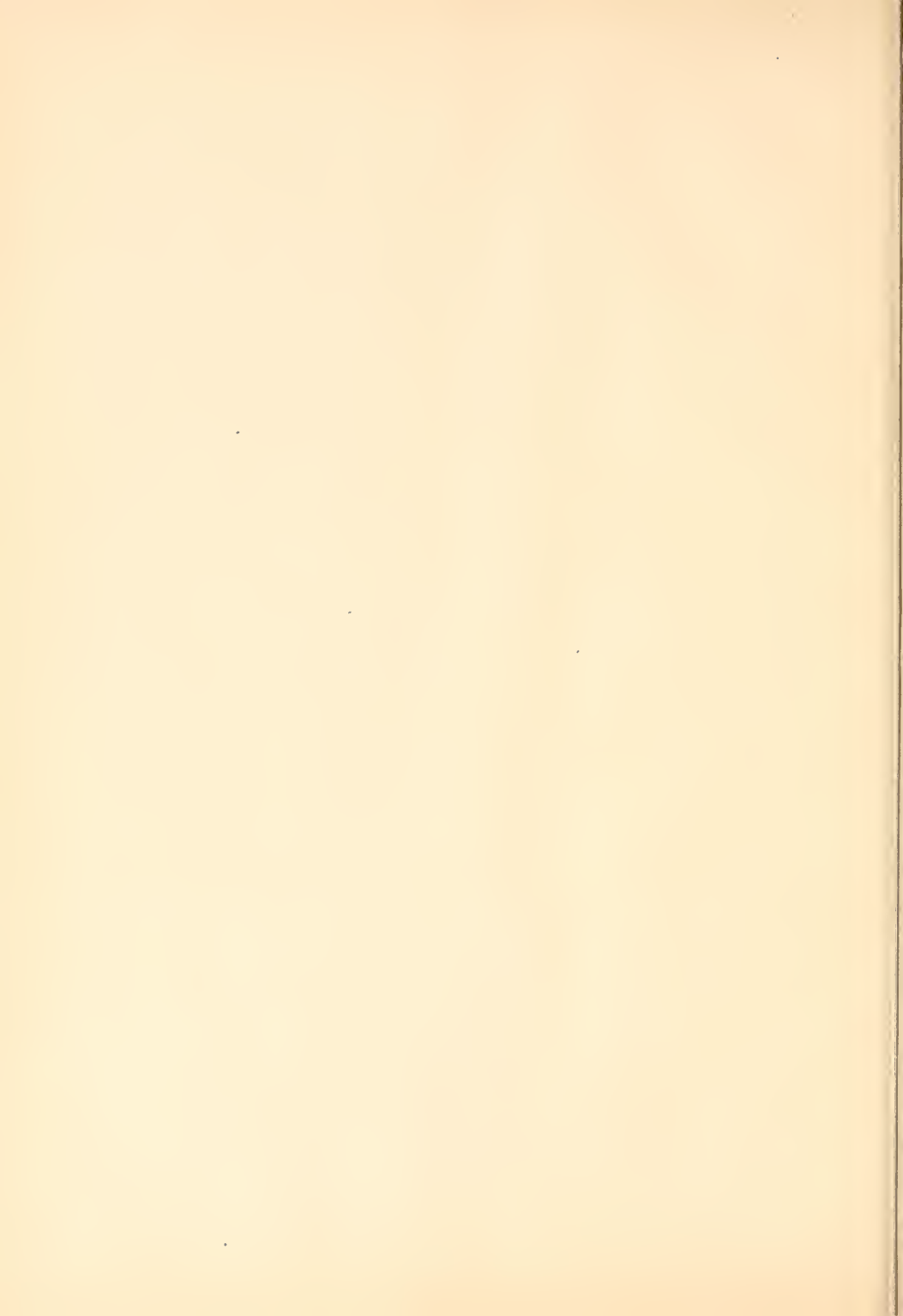


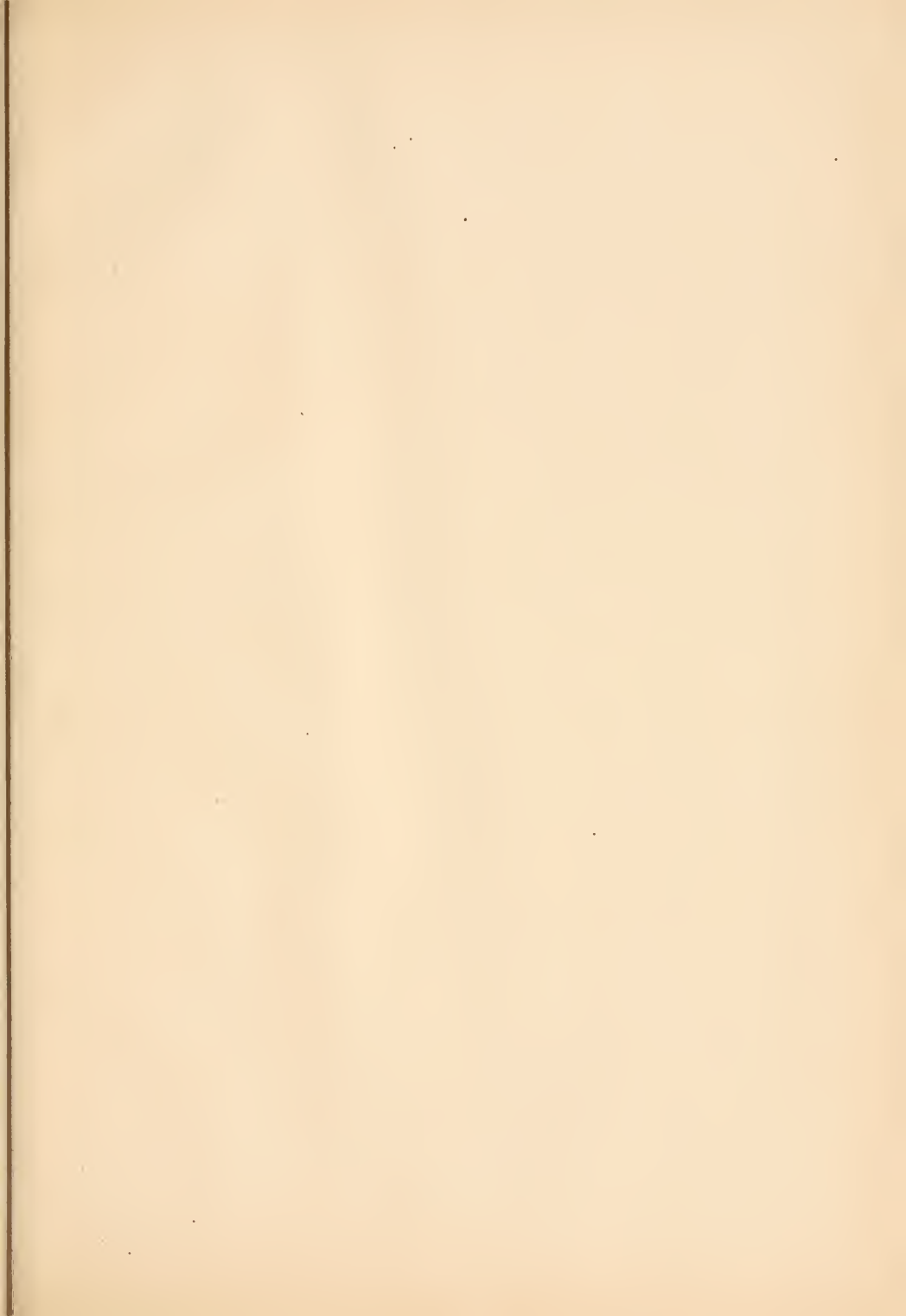




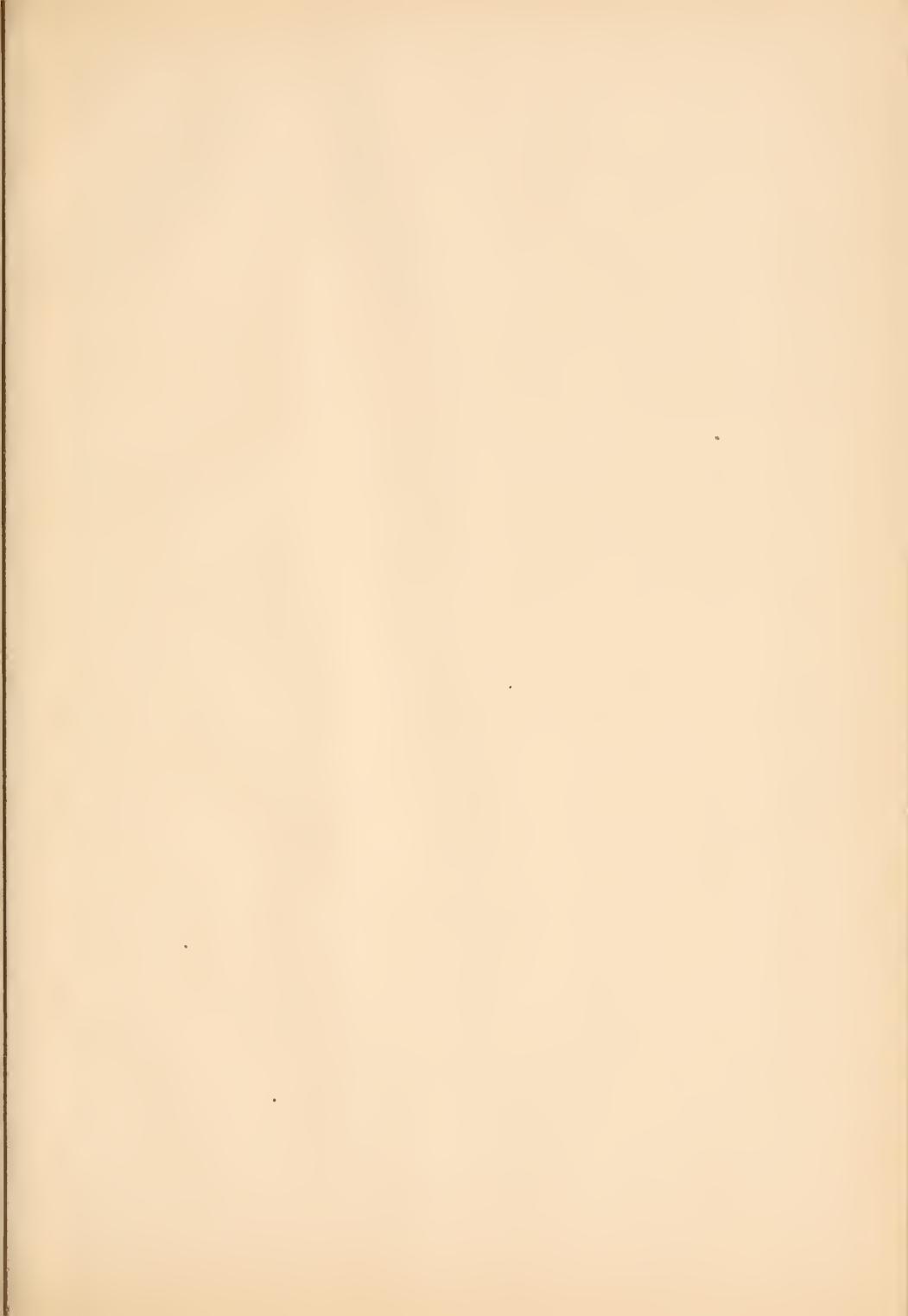




















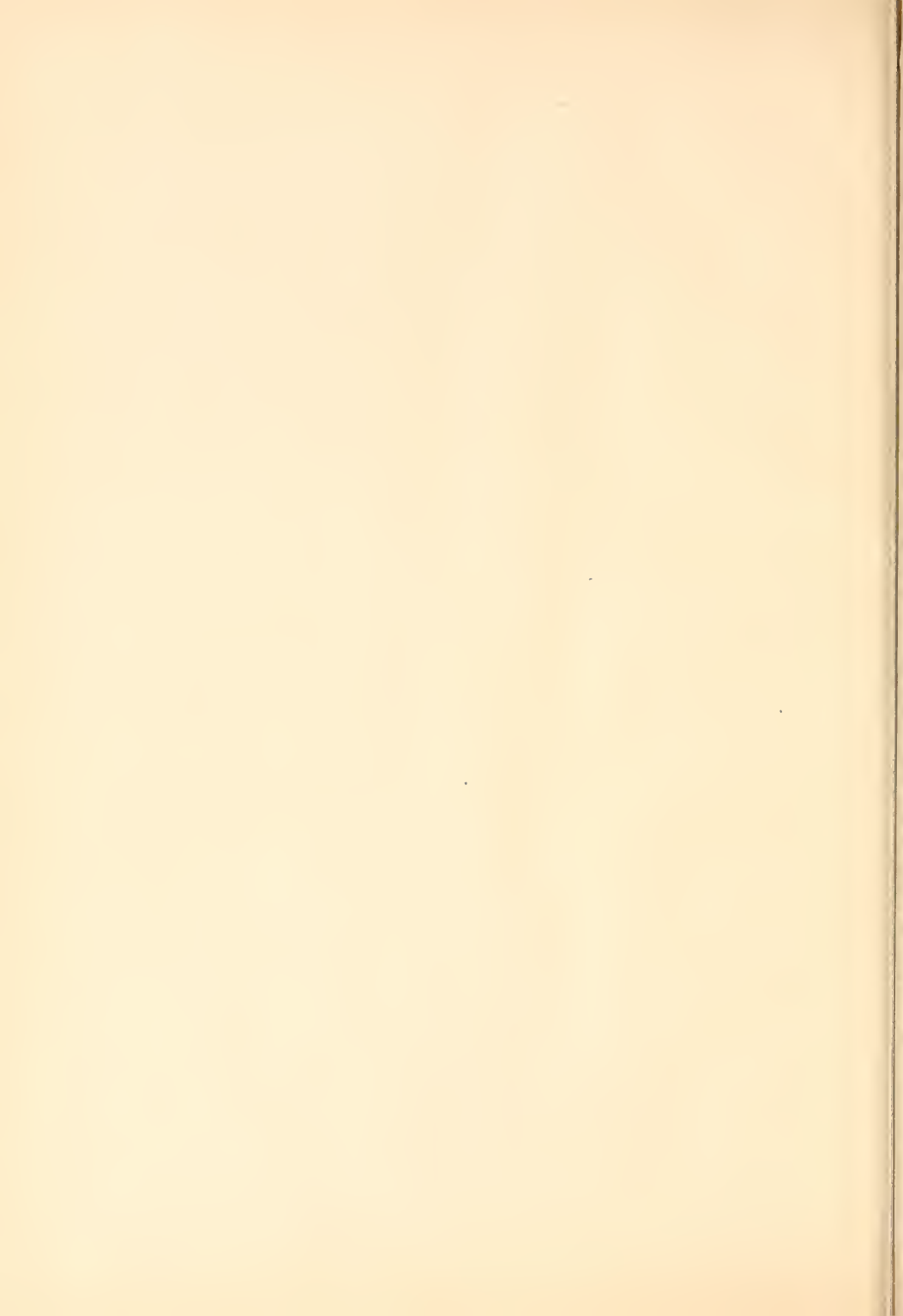




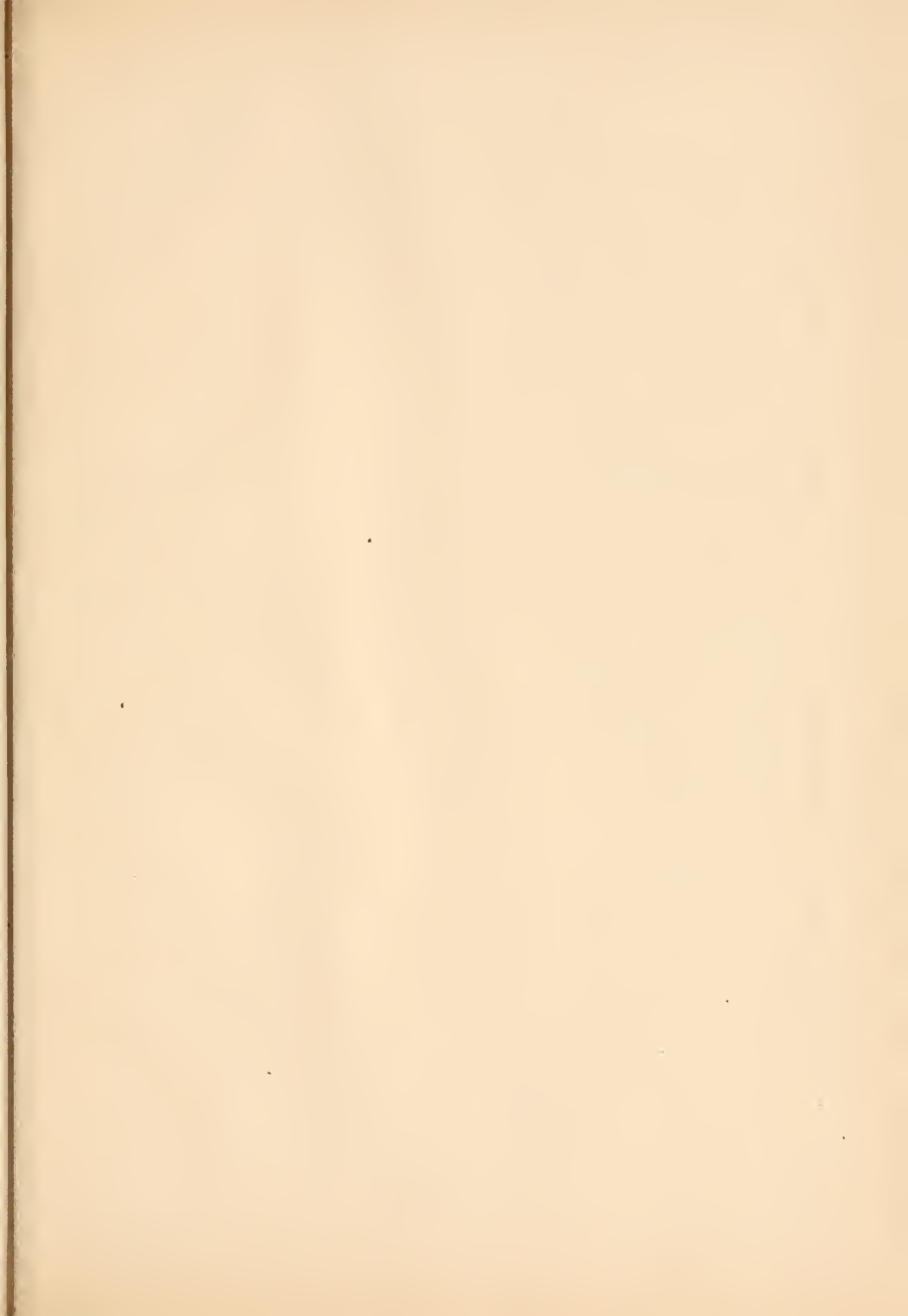


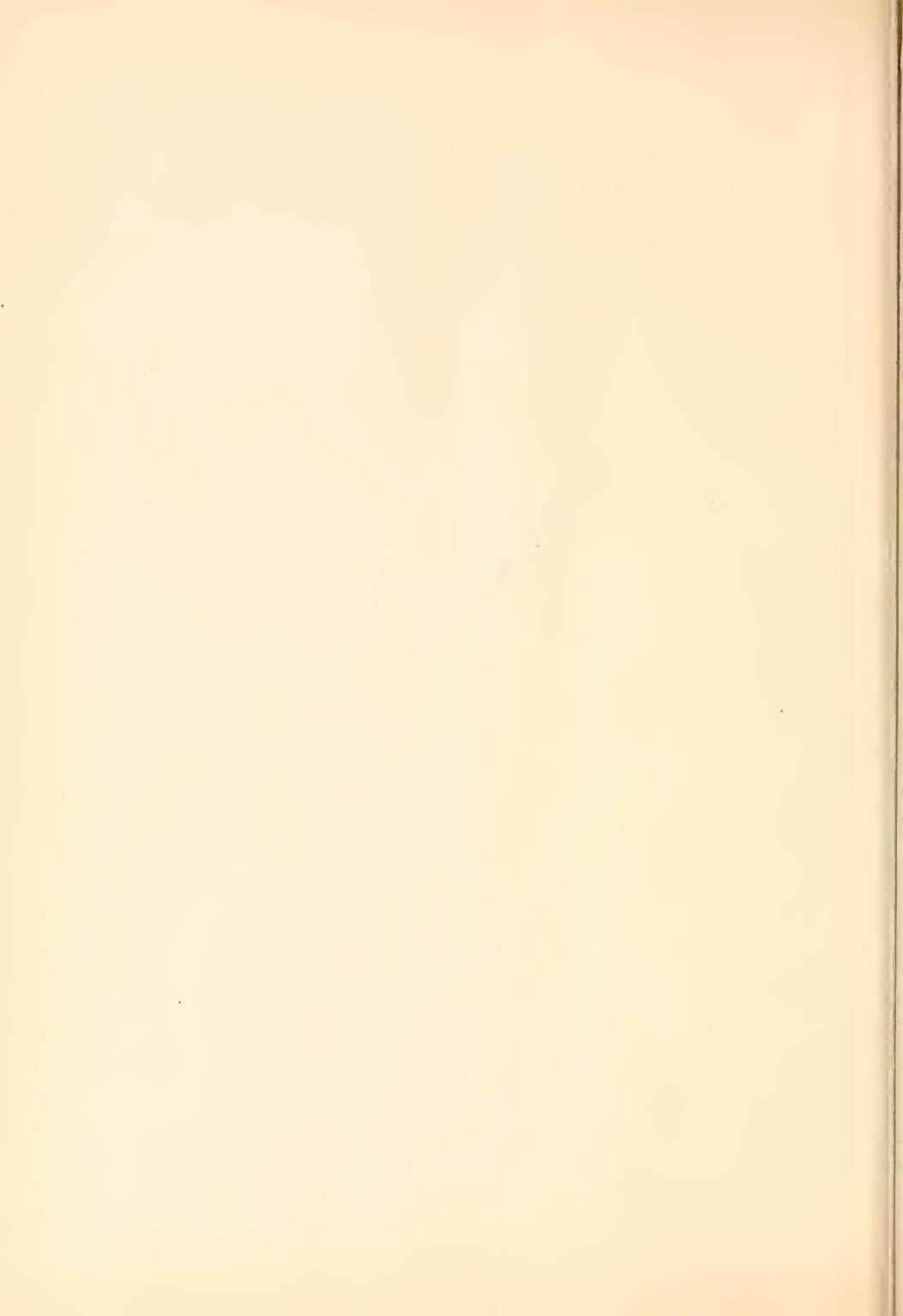


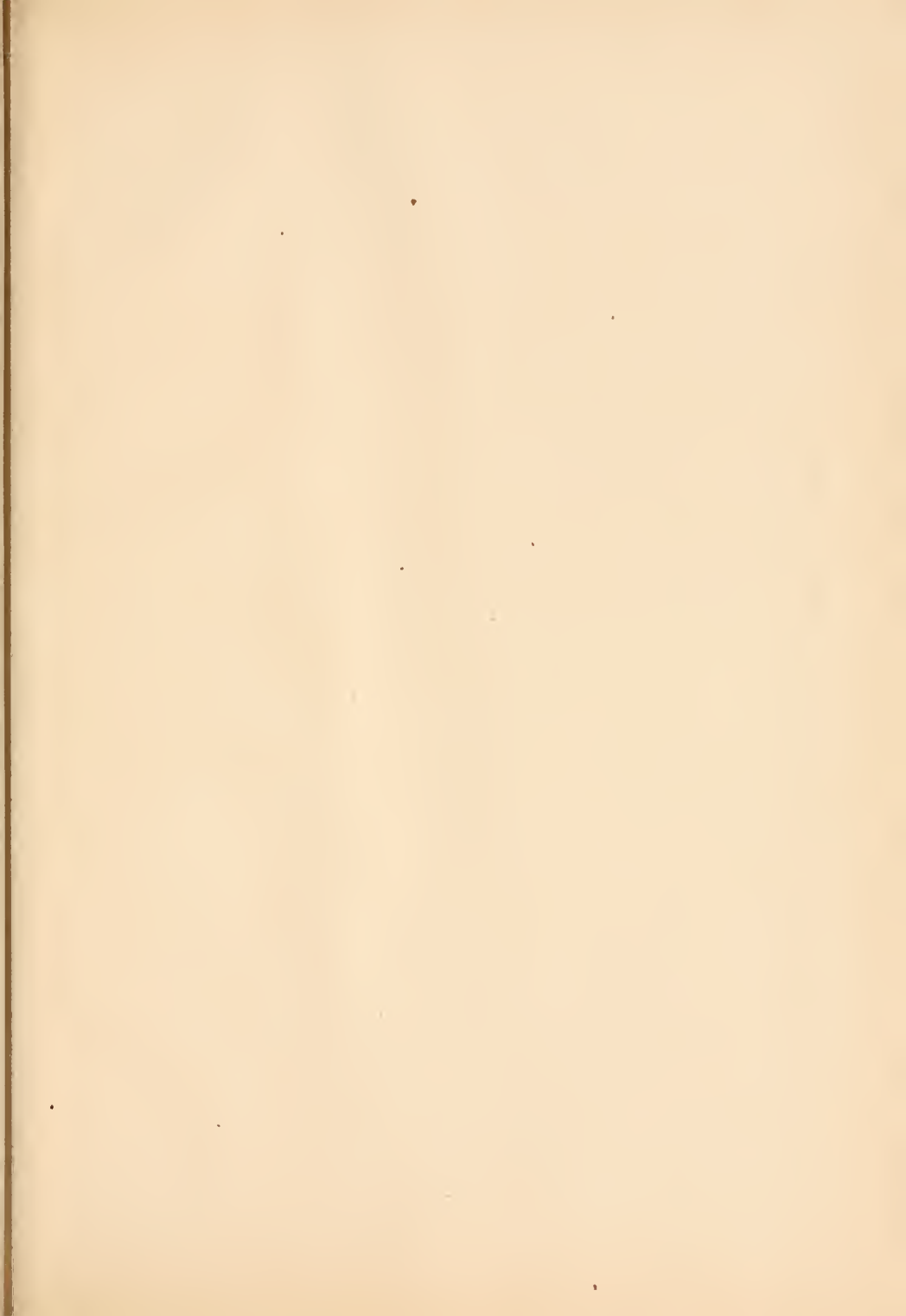




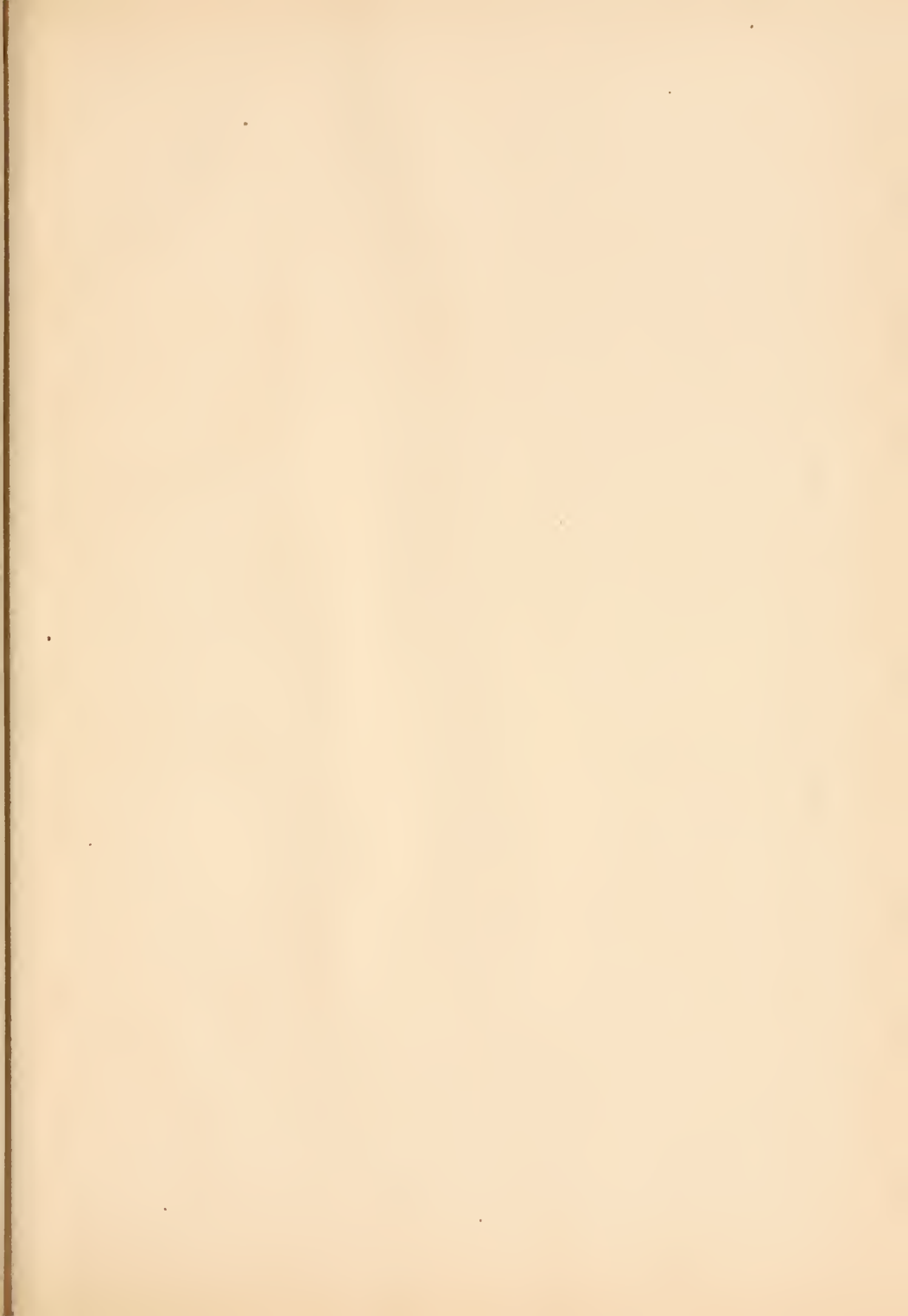
















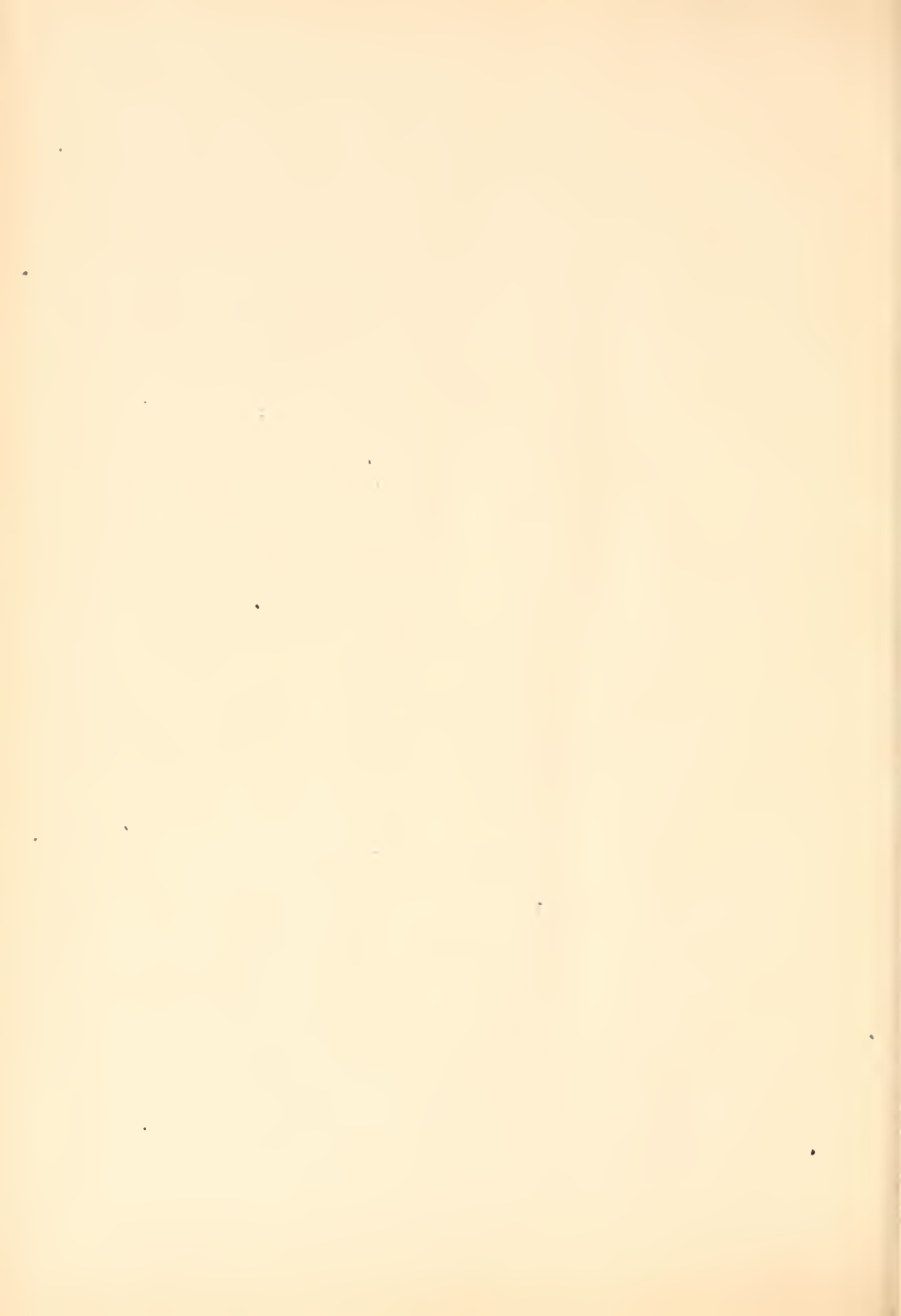


















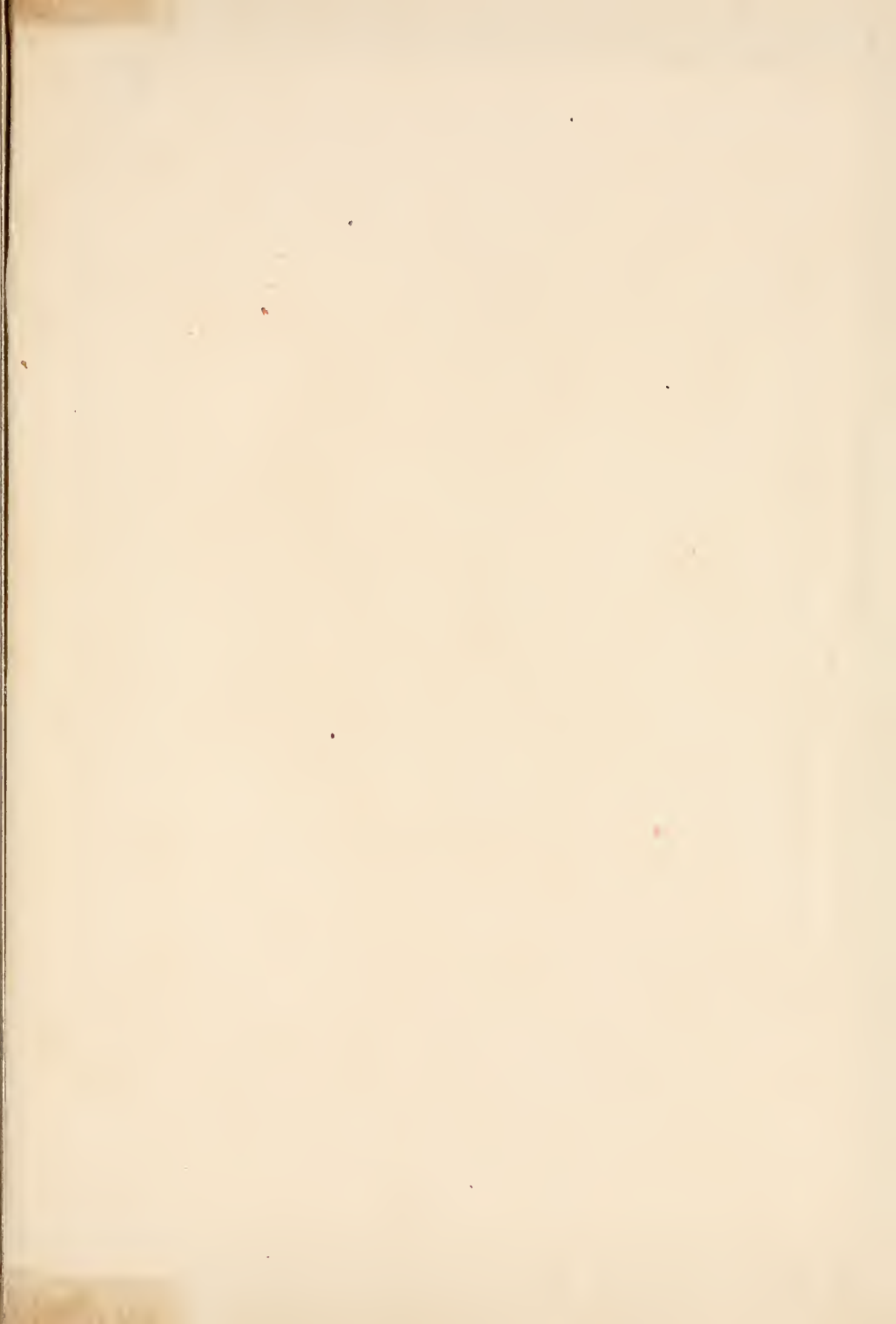












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